

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOANN PELLETIER,)
Plaintiff)
)
v.) CIV. ACTION NO. 05-30109-MAP
)
SANDRA T. TALBOT, ET AL.,)
Defendants)

MEMORANDUM AND ORDER REGARDING
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
(Dkt. No. 19)

May 22, 2006

PONSOR, D.J.

Plaintiff JoAnn Pelletier has filed this suit, alleging copyright infringement by Defendants Sandra T. Talbot, Chitra Publications, Chariot Publishing, Inc., and Christiane Meunier.

Plaintiff charges that Defendants copied her quilt pattern and design, "Sew Many Spools," in their pattern "Just Spooling Around."

The Motion for Preliminary Relief seeks an order enjoining Defendants from reproducing, advertising for sale, or distributing quilts, pictures of quilts, or instructions for quilts that use Plaintiff's pattern or design.¹ Plaintiff also seeks an order requiring Defendants to produce certain information that would permit Plaintiff to calculate her damages.

¹ Defendant Talbot has already stipulated to entry of preliminary injunction (Dkt. No. 22). This order therefore concerns only the remaining Defendants.

The parties' submissions and oral argument presented a very close question on the issue of likelihood of success on the merits. Significant evidence suggests that the "Sew Many Spools" design and pattern was independently created by Plaintiff and that it possesses "at least some minimal degree of creativity." Feist Publ'ns Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 345 (1991). In addition, the record is undisputed that Defendant Talbot took classes from Plaintiff at which quilting with the use of the traditional courthouse steps log cabin pattern was discussed.

On the other hand, certain evidence suggests that any similarity between "Sew Many Spools" and "Just Spooling Around" results from the existence of a common ancestor, namely certain quilts presented in a book by Janet Kime, Log Cabins: New Techniques for Traditional Quilts (1992). Thus the balance remains in equipoise, and Plaintiff is not entitled to preliminary relief. Although she will certainly have a strong case, the court cannot say with assurance that there is a likelihood that Plaintiff will succeed on her claim of original design. For this reason, the Motion for Preliminary Injunction is hereby DENIED.

In recognition of Plaintiff's near success in obtaining preliminary relief, the court will move this case quickly to trial. Along these lines, the court has ordered that all discovery in this case be completed by July 7, 2006, and that counsel appear before this court for a final pretrial

conference on July 20, 2006, at 3:00 p.m. At least five (5) days prior to the conference, counsel will file final pretrial memoranda in accordance with the attached order. Please note: failure to file a final pretrial memorandum as ordered may result in default or dismissal.

It is So Ordered.

/s/ Michael A. Ponsor

MICHAEL A. PONSOR

U. S. District Judge